

Fiscal Impact Statement for Proposed Permanent Rules

Agency:

N.C. Medical Care Commission

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Rule Citations:

10A NCAC 13B Licensing of Hospitals
10A NCAC 13B .3110 Itemized Charges
10A NCAC 13B .3502 Required Policies, Rules and Regulations

10A NCAC 13C Licensing of Ambulatory Surgical Facilities
10A NCAC 13C .0202 Requirements for Issuance of License
10A NCAC 13C .0205 Itemized Charges
10A NCAC 13C .0301 Governing Authority

Statutory Authority:

N.C.G.A. Session Law 2013-382, Part XIII. Section 13.1 “*Fair Health Care Facility Billing and Collections Practices*” (Effective date: October 1, 2013)

Description of Rule Changes:

The proposed amendments to rules in Chapters 10A NCAC 13B *Licensing of Hospitals* and 10A NCAC 13C *Licensing of Ambulatory Surgical Facilities* are in response to a recent act of the General Assembly, specifically Session Law 2013-382, Part XIII. *Fair Health Care Facility Billing and Collections Practices*, which became effective on October 1, 2013. The intent of this act is to improve transparency in the cost of health care services provided by hospitals and ambulatory surgical facilities and to ensure fair health care facility billing and collections practices. Section 13.1 of this act requires the N.C. Medical Care Commission to adopt rules to ensure that the provisions of the law are properly implemented.

Anticipated Impact:

The division facilitated meetings and communications with stakeholders, including representatives from licensed hospitals, ambulatory surgical facilities, and the public. Stakeholders reviewed these proposed rules and came to consensus on the proposed rule language to implement the requirements of the new law (S.L. 2013-832). Stakeholders also provided feedback to the agency on the anticipated fiscal impact of these rules on facilities, which they asserted would have little to no impact, as facilities currently have most of the required policies in place to comply with existing rules and federal regulations. In addition, the N.C. Hospital Association surveyed its members to elicit feedback on potential costs associated with these rules. The association received limited response to their query, and as a result the division was

unable to determine an estimate of the impact of these rules on licensed hospitals. The division encountered the same limited response in attempting to estimate the impact of these rules on ambulatory surgical centers.

It is important to note that the federal government has issued proposed Internal Revenue Service (IRS) regulations (Federal Register, Vol. 77, No. 123, pgs. 38160-38169, issued on June 26, 2012) that address many of the same billing and collection practice requirements as S.L. 2013-382 for non-profit hospitals and ambulatory surgical centers. Since the IRS regulations (1.501[r]) were proposed, hospitals have been preparing for their approval and implementation. As a result, many hospitals may already be complying with various aspects of the new North Carolina law, and therefore, would not experience much if any fiscal impact when these rules are adopted. Specifically, 1.501(r)4 – Financial Assistance Policy and Emergency Medical Care Policy; 1.501(r)5 – Limitation on Charges; and 1.501(r)6 – Billing and Collections meet and/or exceed the North Carolina requirements contained in the proposed rules.

The vast majority of hospitals are non-profit; however, only a small number of ambulatory surgical centers are non-profit. Since the for-profit hospitals and ambulatory surgical centers are certified by the Center for Medicare and Medicaid Services (CMS), most of the billing and collection requirements are consistent with both the IRS and North Carolina requirements.

- 1.) 10A NCAC 13B .3502 Required Policies, Rules and Regulations
10A NCAC 13C .0202 Requirements for Issuance of License
10A NCAC 13C .0301 Governing Authority

These proposed amendments require a facility's governing board to assure that written policies and procedures are developed in order to implement the requirements of S.L. 2013-382 regarding fair billing and collections practices. They also, in accordance with the session law, provide for a way for the Division of Health Service Regulation to verify that a facility is in compliance with the law prior to renewal of a facility's license.

The fiscal impact of these proposed rules is difficult to determine, but is anticipated to be minimal. Several studies on the benefits of the use of "plain language" in health care settings highlighted on the website *Clear Language @ Work* (www.clearlanguageatwork.com) show that materials provided to adults, including health care-related documents, often have a clear net benefit to health care providers and patients. Several of the highlighted studies show that when plain language is used in written materials and instructions, adults make fewer errors in completing forms and have fewer questions that absorb employee time in providing assistance to that individual. As it pertains to the proposed rules, one could reason that if patients were provided billing information in plain language, it could save the facility money in terms of staff time answering patients' inquiries, as well as a possible increased rate of recoupment of charges. Inadequate data prohibits the agency from quantifying the likely costs and benefits. The existing research noted above on incorporating plain language into health care documents suggests that the proposed rules will likely have positive net benefits.

In discussions with providers, the division learned that facilities would have different ways of implementing the new requirements. Based on these discussions with stakeholders, the division assumes that each facility would task a staff member (or multiple staff members) to draft or amend current policies and procedures to comply with the proposed rules. The agency assumes that the facilities' governing boards would approve the amended policies and procedures, that facilities would have to amend forms and notifications provided to patients (such as their admission packets), that facility staff would have to be trained on the new policies, and facility staff may need to develop or revise some risk management or quality assurance measures to assure compliance. Obviously these tasks would incur an opportunity cost

of staff time, but because each facility has different systems and organizational structure, the actual cost impact of these rules should be minimal, as consistent with the impact associated with implementing “plain language” billing and collection practices as previously described.

In addition, there is an opportunity cost associated with the time that a division staff member would incur upon receiving and processing the attestation statements from facilities upon initial licensure or license renewal. The amount of time this task would take is minimal, likely five to ten minutes of administrative staff time per facility per year, as it is simply a matter of verifying that the attestation was received. Since there are 134 licensed hospitals, at 10 minutes per application, the time to accomplish this task is approximately 22 hours annually. There are 116 licensed ambulatory surgical centers. At 10 minutes per application, the time to accomplish this task is approximately 19 hours annually. The total staff time dedicated to this task is estimated at 41 hours annually. Completion of this task will be accomplished by existing staff resources.

2.) 10A NCAC 13B .3110 Itemized Charges
10A NCAC 13C .0205 Itemized Charges

These proposed amendments require facilities to extend the amount of time provided to a patient to request an itemized bill. The length of time is extended from 30 days to three years. Since the data is already captured electronically and does not affect the information being provided under the current rule, the change in the retention schedule to extend this to three years is likely to be negligible. The actual number of patients seeking an itemized bill beyond the current 30-day period is unlikely to be significant and should be manageable within the current processes used by these facilities.

The proposed rules also require that the itemized bill must be in language that is clear, concise, and easy to understand. The purpose of this requirement is to improve transparency and help health care consumers understand charges they have incurred. As previously discussed in this analysis, the agency assumes that there is an unquantified net benefit to facilities and patients when “plain language” is used in billing and collection communication. The division assumes that, consistent with federal requirements and with other national voluntary efforts, the use of plain language in medical billing is likely to be current practice for some facilities and that others may have to make adjustments to their billing systems in order to amend the language on the bills. For those facilities that must adjust their current bill language, the division assumes that there would be minimal opportunity cost for facility staff to modify existing language within their billing systems. There may also be some costs associated with modifying computer billing programs.

Many facilities currently provide patient bills and other patient communications in “plain language” in an effort to comply with the requirements of 1.501(r) as previously described. In addition, facilities establish communication, both written and oral, in a manner best suited to meet the needs of their unique communities, taking into local demographic considerations into account. The agency recognizes that this requirement will not be implemented identically across all facilities. As previously stated, the division expects facilities to utilize language appropriate for the communities they serve, and the agency assumes that most facilities are currently employing this practice. In addition, based on information from stakeholders, as a service to patients, it is standard practice for facilities to also provide live-person assistance (by telephone or in person) for patients who have questions about their bills or those who are requesting additional information. Although this requirement does not currently exist in rule for all facilities, for hospitals it is included in the Patients’ Rights requirements (10A NCAC 13B .3302 (20) and (21)) that patients have the right to examine their bill and receive a detailed explanation of their bill, and also have the right to full information and counseling on the availability of known financial resources for their health care.